

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 4, 23, 33 and 42 are requested to be canceled without prejudice or disclaimer.

Claims 1-3, 5-20, 22, 24-32, 34-41 and 43-58 are currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-3, 5-20, 22, 24-32, 34-41 and 43-58 are now pending in this application.

Claim Objections

Claims 1-20, 23-31 and 40-58 were objected to for minor informality. Applicant has amended these claims as suggested by the Examiner.

Claim 34 was objected to by the Examiner as allegedly being indefinite for reciting “An arrangement.” Applicant respectfully disagrees and submits that the language recited in claim 34 is sufficiently definite. The originally filed specification and figures clearly describe an arrangement. For example, reference may be made to originally filed Figure 1 and the associated description in the originally filed specification at page 5, lines 8-15. Therefore, the “arrangement” recited in claim 34 is in definite form.

Accordingly, the objections to the claims should now be withdrawn.

Claim Rejections

Claims 1-20 and 22-58 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Application No. 20020064149 to Elliott *et al.* (hereinafter “Elliott”) in view of U.S. Patent Application No. 20040088348 to Yeager *et al.* (hereinafter

“Yeager”). As to canceled claim 33, the rejection is moot. As to claims 1-20, 22-32 and 34-58, Applicant respectfully traverses the rejection for at least the following reasons.

As a preliminary matter, Applicant notes that, while the Examiner describes the present application as having an effective filing date of September 27, 2006, the present application is a national stage filing of a PCT application filed on June 29, 2004, and a foreign application filed on February 27, 2004.

Regarding the rejection of the claims, as noted in an earlier reply by Applicant, embodiments of the present invention relate to the transfer of files between a sending device and receiving user equipment. Transfer of such files may require accommodation of certain limitations. For example, as noted in the specification, “[t]o be able to transfer the file from the sending device, such as a digital camera, to the receiving user equipment, such as a mobile station, the sending device needs to re-size the files to fit to the limitation.” Specification, page 6, lines 1-3. In accordance with embodiments of the present invention, information relating to the transfer method and/or the receiving user equipment is used to assess if the data file is to be modified. The assessment may be used to accordingly modify the data file.

In certain embodiments, a clone data file is created of the original data file, and the clone file is modified. Thus, the original data file may be left intact. When the file transfer is completed, the cloned data file may be deleted from the sending device to save storage capacity, for example. See Specification, page 10, line 1-5. Applicant has amended independent claims 1, 22, 32, 34 and 39 to recite this feature. This feature was originally recited in dependent claims 4, 23 and 42, each of which has been canceled herein without prejudice or disclaimer.

In rejecting claims 4, 23 and 42, the Examiner cites Elliot as allegedly disclosing the above-noted feature at paragraph [1561]. See Office Action dated September 4, 2008, Page 5. Applicant respectfully disagrees with the Examiner’s interpretation of the disclosure of Elliot as applied to the pending claims.

Specifically, the cited portion of Elliot fails to teach or suggest any cloned data file, let alone modification to the cloned data file. Rather, Elliot discloses providing a graphical user interface and a common messaging system. In accordance with the disclosure of Elliot, the “user is able to modify his account” Elliot, paragraph [1561]. There is no disclosure in Elliot of any cloned file or account. Thus, there is no teaching or suggestion in Elliot, either in the cited portion or elsewhere, of a cloned data file.

Yeager fails to cure this deficiency of Elliot in relation to the pending claims. Thus, the cited references, either alone or in combination, fail to teach or suggest at least this feature of the pending claims.

In order to establish a *prima facie* case of obviousness, “the prior art reference (or references when combined) must teach or suggest all the claim limitations.” M.P.E.P. § 2143. Since neither Elliot nor Yeager teaches or suggests at least the above-noted feature of the pending claims, the Office Action fails to establish a *prima facie* case of obviousness.

1-3, 5-20, 22, 24-32, 34-41 and 43-58

Accordingly, independent claims 1, 22, 32, 34 and 39 are patentable. Claims 2, 3 and 5-20 depend, either directly or indirectly, from allowable claim 1 and are, therefore, patentable for at least that reason, as well as for additional patentable features when those claims are considered as a whole. Similarly, claims 24-31 depend from allowable claim 22, claims 35-38 depend from allowable claim 34, and claims 40, 41 and 43-58 depend from allowable claim 39. Therefore, claims 24-31, 35-38, 40, 41 and 43-58 are patentable for at least that reason, as well as for additional patentable features when those claims are considered as a whole.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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